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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,717	08/09/2001	Richard Fischbeck	00-106	6856

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/928,717	Applicant(s) FISCHBECK, RICHARD
	Examiner Phi D A	Art Unit 3637
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
Period for Reply		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>16 January 2003</u>.</p> <p>2a)<input type="checkbox"/> This action is FINAL. 2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
Disposition of Claims		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-23</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) <u>2-7,11-13 and 17-23</u> is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1,8-10 and 14-16</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
Application Papers		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input checked="" type="checkbox"/> The drawing(s) filed on <u>09 August 2001</u> is/are: a)<input type="checkbox"/> accepted or b)<input checked="" type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input checked="" type="checkbox"/> The proposed drawing correction filed on <u>26 October 2001</u> is: a)<input checked="" type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
Priority under 35 U.S.C. §§ 119 and 120		
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="margin-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="margin-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p style="margin-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
Attachment(s)		
<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p>		

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

1. The corrected or substitute drawings were received on 10/26/01. These drawings are approved.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the construction of the geodesic structure with the different species of hub element as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Election/Restrictions

1. Applicant's election without traverse of claims 1-10, 14 and 16 in Paper No. 6 is acknowledged. Claims 11-13, 17-23 are thus withdrawn from consideration

However, as applicant elects specie I to figure 5, the specie I to figure 5 appears to read on claims 1, 8-10, 14-16 only. Thus, claims 2-7 are also withdrawn from further consideration as to a non-elected specie to figure 6.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 8, 9, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaeger et al (6098347).

Jaeger et al (figures 2, 19, 20) shows a geodesic structure (39) having a plurality of hub elements (1) having a vertex (18) and a hub base (the bottom at 20) at a second end that is opposite the first end, an angular deficit (Alpha formed by angular frame 20), the hub elements (inherently is able, figure 20) to be randomly arranged adjacent to one another so as to form the geodesic structure, a virtual strut having a strut length, the virtual strut extending as a straight line between any two adjacent vertexes of the hub element (the virtual line connecting the vertexes at 18), the structure being a semi-spherical dome (figure 19), the hub being a cone (figure 2), the cone being fabricated of sheet material from sheet material from the group consisting of metal (3).

4. Claims 1, 8-10, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chamberlain (4270320).

Chamberlain shows a geodesic structure having a plurality of hub elements (26), each hub element having a vertex (figure 3, at 66) at a first end and a hub base (the bottom at 34) at a second end that opposite the first end, an angular deficit (Alpha formed by the curvature of the hub on the interior), the hub elements are randomly arranged adjacent to one another so as to form the geodesic structure, the structure being a sphere (col 3 lines 18-19, geometrically a perfect sphere), a virtual strut having a strut length, the virtual strut extending as a straight line between any two adjacent vertexes of the hub element (the virtual line connecting the vertexes at 66), a semi-spherical dome (figure 1), the hub element being a cone (as the interior angle of the cone is not yet defined, the interior of the hub element appears to be that of a cone), the cone being fabricated of sheet material from the group consisting of metal, the hub elements being arranged in an overlapping fashion (figure 1) so as to provide a closed surface.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different geodesic structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Art Unit: 3637

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read "Phi Dieu Tran A". The signature is fluid and cursive, with a large, stylized oval shape to the right of the main name.

Phi Dieu Tran A

March 8, 2003